IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5151 of 2001
With
CIVIL APPLICATION NO. 12803 OF 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORP.

Versus

INDIAN SOCIETY FOR COMMUNITY EDUCATION,THRO'ITS PRESIDENT

Appearance:
1. First Appeal No. 5151 of 2001
MR P.S. PATEL for Petitioner No. 1
MR NISHITH P THAKKAR for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE N.G.NANDI

Date of decision: 24/01/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

1. Heard learned counsel Shri. P.S. Patel for appellant Corporation and Shri. Nishith Thakkar, learned counsel for respondent.

2. The appellant Corporation has challenged in this appeal the impugned judgment & order dated 12-3-1999 passed by Learned Judge, Small Causes Court, Ahmedabad, Court No. 11 in M.V. Appeal No. 2915 of 1996, whereby learned Judge allowed the appeal of the respondent and set aside the G.R.V. of Rs. 25,162/- fixed by appellant Corporation for the year 1994-95 and fixed it at Rs.5,900/-.

3. Learned counsel Shri. Patel for the appellant Corporation submitted that, when the respondent himself stated that they were using the premises as Pujan Purpose Centre, then it would be for commercial purposes, therefore Learned Judge should not have interfered and reduced the G.R.V. from Rs.25,162/- to Rs.5,900/- on the ground that it is used for residential purpose.

4. This submission of Shri. Patel cannot be accepted for the simple reason that the premises in question is a residential flat, and the respondent is a public trust registered under the provisions of Bombay Public Trust Act, using the said premises for the purpose of training & imparting education to the students. For that purpose if it is used as Pujan Purpose Centre, then, it can never become commercial, but it remains to be residential. In absence of any other evidence led contrary to this, we are not prepared to take a different view of the matter than the view taken by Learned Judge in appeal.

5. In view of the above observations this appeal fails and accordingly it is dismissed. In view of the appeal being dismissed, no order in Civil Application No. 12803 of 2001, and it is accordingly dismissed. No order as to costs.

Dt: 24-1-2002 (B.J. Shethna, J)

(N.G. Nandi, J)

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